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STATE OF CALIFORNIA  
NEW MOTOR VEHICLE BOARD  
**MINUTES**

The New Motor Vehicle Board held a Special meeting on December 11, 2003, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

Glenn E. Stevens, President of the Board, called the Special meeting to order at 10:03 a.m.

Present:	Robert V. Branzuela	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	David C. Lizárraga	Howard Weinberg
	Haig Papaian	General Counsel
	Sushil K. Sharma	Robin Parker
	Glenn E. Stevens	Senior Staff Counsel
	David W. Wilson	

Absent: Andy Robles  
Alan J. Skobin

3. **INTRODUCTION OF NEW BOARD MEMBERS: HAIG PAPAIAN, PUBLIC MEMBER; ANDY ROBLES, DEALER MEMBER; AND SUSHIL K. SHARMA, PUBLIC MEMBER - BOARD DEVELOPMENT COMMITTEE**

Mr. Stevens introduced the new Board members. Haig Papaian was appointed by former Governor Davis, and is the owner of the Commerce Casino in Commerce, California. Anastacio "Andy" Robles was appointed by former Governor Davis and is the Vice President and General Manager for B & B Motors dba Thousand Oaks Toyota. Mr. Stevens indicated that Andy was not present at the meeting because of a prior commitment. Sushil Sharma was appointed by Senator John Burton, Chairman of the Senate Rules Committee, and is the owner of Gaylord India Restaurant in San Francisco.

4. **INTRODUCTION OF CHON GUTIERREZ, INTERIM DIRECTOR, DEPARTMENT OF MOTOR VEHICLES - BOARD DEVELOPMENT COMMITTEE**

This matter was postponed pending Mr. Gutierrez's arrival.

5. **CONSIDERATION OF PRESENTATION OF RESOLUTION TO ANGELO QUARANTA, FORMER PUBLIC MEMBER**

Mr. Flesh moved to present a Resolution to Angelo Quaranta, former Public member, in appreciation for his dedication and service to the Board. Mr. Wilson seconded the motion. The motion carried unanimously. The Resolution will be presented at a future Board meeting. (The presentation is currently scheduled for the March 9, 2004, General meeting, in Sacramento.)

6. **REPORT ON IMPACT OF EXECUTIVE ORDER S-2-03 AS IT RELATES TO THE BOARD'S PROPOSED REGULATORY ACTIONS AND REGULATIONS ADOPTED, AMENDED OR REPEALED SINCE JANUARY 1999 - EXECUTIVE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning the impact of Executive Order S-2-03 on the Board's proposed regulatory actions and regulations adopted, amended, and repealed since January 1999. Mr. Weinberg reported that he was taking the necessary steps to comply with the directives in the Executive Order and that nonsubstantive regulations were allowed to proceed.

7. **STATUS REPORT ON IMPLEMENTATION OF THE REVISED TRANSCRIPT POLICY THAT ALLOWS LITIGANTS TO PURCHASE HEARING OR MEETING TRANSCRIPTS FROM THE COURT REPORTER INSTEAD OF THE BOARD - ADMINISTRATION COMMITTEE**

At the March 12, 2002, General meeting, the members adopted a revised transcript policy that allows the litigants to purchase hearing or meeting transcripts from the court reporter instead of the Board. Miss Kindel reported no problems with the revised policy.

8. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR THE 1ST QUARTER OF FISCAL YEAR 2003-2004 - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for the 1st quarter of fiscal year 2003-2004. Miss Kindel reported that the Board has expended 19% of its appropriated budget through the 1st quarter of fiscal year 2003-2004.

Mr. Flesh requested that the staff review the fiscal projections that formed the basis of the current fee structure and report back to the Board.

Mr. Novi reported that Executive Order S-04-03 relates to the Board's budget and expenses. It freezes all non-essential travel and the entering of new contracts. The Department of Motor Vehicles ("DMV") issued a directive that no purchases can be made for any reason. In essence, all expenditures are frozen. Mr. Novi indicated that he has canceled his attendance at the 2004 National Automobile Dealers Association convention in Las Vegas.

9. **ANNUAL STATUS REPORT CONCERNING THE BOARD'S COLLECTION OF ITS ANNUAL FEE (13 CCR § 553.10) - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the Board's collection of its annual fee. Miss Kindel reported that the fee collection was completed in October 2003, and nearly \$775,000 was collected.

10. **CONSIDERATION OF A REVISED GUIDE TO THE NEW MOTOR VEHICLE BOARD TO INCLUDE INFORMATION ON STATUTORY AND REGULATORY CHANGES - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum and revised Guide to the New Motor Vehicle Board from Howard Weinberg. Mr. Weinberg summarized the changes to the Guide that now include recreational vehicles within the Board's jurisdiction, a revised petition section in light of the decision in *Phillips Mazda*, a new section on informal mediation, and references to secretary have been changed to Executive Director and those to hearing officer to Administrative Law Judge. Mr. Novi reported that absent an objection by the members the Guide would not be mailed to all licensed dealers and manufacturers, and sent to the Board's Public Mailing List. Instead a letter would be sent informing the reader that the Guide to the New Motor Vehicle Board as well as the Informational Guide for Manufacturers and Distributors is available on the Board's web site. This is expected to save the DMV several thousand dollars. Mr. Wilson moved to adopt the Guide. Mr. Lizárraga seconded the motion. The motion carried unanimously.

(Note: the assigned committee on the agenda was inadvertently listed as the Policy and Procedure Committee. The appropriate committee should have been the Administration Committee).

11. **CONSIDERATION OF WHETHER ALL-TERRAIN VEHICLES AS DEFINED IN VEHICLE CODE SECTION 111 FALL WITHIN THE JURISDICTION OF THE BOARD FOR PURPOSES OF FEE COLLECTION AND CASE MANAGEMENT - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning whether all-terrain vehicles fall within the jurisdiction of the Board for purposes of fee collection and case management. At the November 7, 2003, General meeting, John Paliwoda, Executive Director of the California Motorcycle Dealers Association, requested that this matter be postponed pending their review.

Mr. Weinberg reported that ATV dealers and manufacturers are not licensed by DMV. However, they are listed in Vehicle Code section 3051 as being within the Board's jurisdiction. This inconsistency appears to be a legislative drafting error.

Halbert Rasmussen, Esq., of Manning, Leaver, Bruder & Berberich, offered written and oral comments on behalf of John Paliwoda and the California Motorcycle Dealers Association. Mr. Paliwoda was available to answer member questions.

Mr. Lizárraga moved to allow the Board to exercise jurisdiction over protests brought by ATV dealers against ATV manufacturers but the Board would cease collecting the annual Board fee and the Arbitration Certification Program fee from these entities. Mr. Branzuela

seconded the motion. The motion carried unanimously.

12. **CONSIDERATION OF DEALER MEMBER INVOLVEMENT IN RECREATIONAL VEHICLE PROTESTS AND PETITIONS - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning dealer member involvement in recreational vehicle ("RV") petitions and protests. Mr. Weinberg reported that due to a drafting error in Senate Bill 248, it is unclear whether dealer members can participate in RV petitions and protests. Mr. Weinberg concluded that dealer members may not participate in petitions involving RV licensees but may participate in RV protests. Mr. Weinberg recommended that dealer members voluntarily recuse themselves in RV protests.

Mr. Stevens requested that Mr. Weinberg draft a waiver to be given to RV litigants to allow dealer members to participate in the matter before the Board.

Mr. Flesh moved to adopt the recommendation. Mr. Lizárraga seconded the motion. The motion carried unanimously.

4. **INTRODUCTION OF CHON GUTIERREZ, INTERIM DIRECTOR, DEPARTMENT OF MOTOR VEHICLES - BOARD DEVELOPMENT COMMITTEE**

Mr. Stevens and the other members welcomed Chon Gutierrez, Interim Director of the Department of Motor Vehicles. Mr. Gutierrez indicated that he was here to offer assistance and be helpful to the Board. Additionally, he offered his assistance with regards to Agenda item 13.

13. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(a)(1), all members of the Board shall convene in a closed Executive Session.

Consideration of annual performance review for Executive Director - Executive Committee.

At the November 7, 2003, General meeting, Mr. Stevens announced that he would work with then DMV Director Gourley on the matters discussed in closed Executive Session and report back at the December 11, 2003, Special meeting. The members of the Board and Mr. Gutierrez convened in closed Executive Session to discuss agenda item 13.

14. **OPEN SESSION**

The members returned to open session. Mr. Stevens announced that Mr. Wilson moved to use the Board's exempt entitlement appointment for the Executive Director position effective January 1, 2004. Mr. Lizárraga seconded the motion. The motion carried unanimously.

15. **ADJOURNMENT**

With no further business to discuss, the meeting was adjourned at 11:52 a.m.

Submitted by

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TOM NOVI  
Executive Director

APPROVED: \_\_\_\_\_

Glenn E. Stevens  
President  
New Motor Vehicle Board